

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 21, 2003

To: The Commission
(Meeting of May 22, 2003)

From: Alan LoFaso
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 583 (Leslie): Generation Facilities: Regulation.**
As Amended March 25, 2003

Legislative Subcommittee Recommendation: Support, if amended.

Summary: This bill would exempt any out-of-state electric generation facility owned by a public utility that serves 60,000 or fewer customers in California from Public Utilities Code § 377, which prohibits further divestment of additional public utility owned electric generation assets before January 1, 2006.

Digest: Existing law, P.U. Code § 377, prohibits public utility owned electric generation plants from disposing of a facility prior to January 1, 2006.

Existing law, P.U. Code § 851, requires a public utility to obtain Commission approval before selling utility property that is "necessary or useful" to the utility as it performs its duties to the public.

Existing law, Chapter 840, Statutes of 2002 (AB 1235, Leslie), authorized divestiture of Sierra Pacific Power's (Sierra) four hydroelectric plants located in Nevada and California as well as PacificCorp's (Pacific) two hydroelectric plants located in Washington, if approved by the Commission pursuant to P.U. Code § 851.

This bill would exempt for any out-of-state electric generation facility owned by a public utility that serves 60,000 or fewer customers in California from P.U. Code § 377, which prohibits further divestment of additional public utility-owned electric generation assets before January 1, 2006.

Analysis: Staff believes that the divestiture authorization would still need to be approved by the Commission pursuant to PU Code § 851. This approval would require that divestiture would only if the Commission determines it is in the public's interest.

Proponents argue that this bill would eliminate the need for additional legislation, such as AB 1235 of last year, seeking express legislative approval to apply to the Commission to dispose of generation assets in circumstances that are appropriate and allow small utilities to more flexibly manage their out-of-state electric generation assets.

It appears that the primary beneficiaries of this bill would be PacifiCorp and Sierra Pacific Power Company. In 2001, PG&E, SCE, and SDG&E, combined, had 10.2 million customer accounts.¹ In 2001, PacifiCorp had 50,384 customer accounts or 0.5% of the combined figure for the three largest investor-owned electric utilities in California, while Sierra Pacific had 43,344 customer accounts, or 0.4%.

Below is a table that details generation assets that would be exempt from PU Code §377 under this bill. Data for PG&E, SCE and SDG&E is shown for comparison purposes.

Utilities With Tariffs On File At The CPUC			
Utilities	<u>Number of Electric Accounts in Year 2001</u>	Out of State Generation Assets	Would Be Exempt from PU Code 377 Under AB 583
PacifiCorp	50,384	Yes	Yes
Sierra Pacific Power Company	43,344	Yes	Yes
Southern California Water Company	21,767	Not Known	Yes
Plumas-Sierra Rural Electric Cooperation	5,940	Not Known	Yes
Anza Electric Cooperative, Inc.	3,523	Not Known	Yes
Pacific Gas and Electric Company	4,645,952	Yes	No
Southern California Edison Company	4,324,755	Yes	No
San Diego Gas and Electric Company	1,273,162	Yes	No

Suggested Amendments:

- The bill uses the term "service connections" but does not specifically define it. The exact relationship between "service connections" and "customer accounts" is not certain, although the bill may equate "service connections" with "customer accounts." The bill should be amended to use the term "customer accounts" instead of "service connections" because the number of "customer accounts" per utility is much more widely reported than "service connections."

¹ CEC website, http://www.energy.ca.gov/electricity/utility_sales.html.

- The bill should clarify that utilities exempted from PU Code § 377's absolute divestment prohibition would still be subject to the Commission's authority to determine whether divestment is in the public interest under PU Code § 851 and cost of service regulation by the Commission prior to any divestment.

Therefore, the bill should be amended as follows (on page 2, lines 15-22):

(b) Notwithstanding subdivision (a), this section does not ~~apply to~~ *prohibit* the sale, transfer, abandonment, or other disposition of a facility for the generation of electricity, or the sale, transfer, abandonment, or other disposition of an interest in a facility for the generation of electricity, that is located outside of this state and is owned exclusively by a public utility that serves 60,000 or fewer ~~service connections~~ customer accounts in this state. *The commission shall continue to regulate any facility for the generation of electricity that a public utility that serves 60,000 or fewer customer accounts owned prior to January 1, 1997, subject to commission regulation until the owner of the facility has applied to the commission to dispose of the facility and the sale, transfer, abandonment, or other disposition is approved by the commission pursuant to section 851 or any applicable law.*

Legislative History:

- Assembly U&C: 14-0 (do pass) (4/1/03)
- Assembly Approps.: 24-0 (do pass) (4/9/03)
- Assembly Floor: 73-0 (do pass) (4/24/03)

SUPPORT/OPPOSITION

Support: Sierra Pacific Power, PacificCorp.

Opposition: None known.

Legislative Staff Contact:

Matthew Marcus, Legislative Liaison
CPUC-OGA

mnm@cpuc.ca.gov
(916) 327-3455

Alan LoFaso, Legislative Director
CPUC-OGA

alo@cpuc.ca.gov
(916) 327-7788

Date: May 21, 2003

BILL LANGUAGE:

BILL NUMBER: AB 583 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MARCH 25, 2003

INTRODUCED BY Assembly Member Leslie

FEBRUARY 18, 2003

An act to amend Section 377 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 583, as amended, Leslie. Generation facilities: regulation.

Existing law requires the Public Utilities Commission to regulate facilities for the generation of electricity owned by any public utility prior to January 1, 1997, until the owner of those facilities has applied to the commission to dispose of those facilities and has been authorized by the commission to undertake that disposal. Existing law prohibits any facility for the generation of electricity owned by a public utility to be disposed of prior to January 1, 2006.

This bill would exempt from those provisions the sale , *transfer, abandonment, or other disposition* of a facility for the generation of electricity, or *the sale, transfer, abandonment, or other disposition* of an interest in a facility for the generation of electricity, that is located outside of this state and is owned exclusively by a public utility that serves ~~50,000~~ 60,000 or fewer service connections in this state.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 377 of the Public Utilities Code is amended to read:

377. (a) Except as provided in subdivision (b), the commission shall continue to regulate the facilities for the generation of electricity owned by any public utility prior to January 1, 1997, that are subject to commission regulation until the owner of those facilities has applied to the commission to dispose of those facilities and has been authorized by the commission under Section 851 to undertake that disposal. Notwithstanding any other provision of law, except as provided in subdivision (b), no facility for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2006. The commission shall ensure that public utility generation assets remain dedicated to service for the benefit of California ratepayers.

(b) Notwithstanding subdivision (a), this section does not apply ~~to the sale of a facility for the generation of electricity, or of an~~ *to the sale, transfer, abandonment, or other disposition of a facility for the generation of electricity, or the sale, transfer, abandonment, or other disposition of an* interest in a facility for the generation of electricity, that is located outside of this state and is owned exclusively by a public utility that serves ~~50,000~~ *60,000* or fewer service connections in this state.